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1828

STATUTES
REGULATING THE PRACTICE OF
PHYSIC AND SURGERY
IN THE
STATE OF NEW-YORK;
AND
THE BY-LAWS
OF THE
MEDICAL SOCIETY OF THE COUNTY OF NEW-YORK,
ADOPTED JULY FOURTEENTH, 1828.
ALSO
A SYSTEM
OF
MEDICAL ETHICS,
AS ADOPTED BY THE
NEW-YORK STATE MEDICAL SOCIETY.

PUBLISHED BY ORDER OF THE SOCIETY.

NEW-YORK:

PRINTED BY J. SEYMOUR, JOHN-STREET.

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V. SEYMOUR, JOHN-STREET.

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AN ACT
TO INCORPORATE MEDICAL SOCIETIES.

FOR THE PURPOSE OF REGULATING

THE PRACTICE OF PHYSIC AND SURGERY IN THIS STATE.

INCLUDING AMENDMENTS TO JAN. 1828.

WHEREAS well regulated Medical Societies have been found to contribute to the diffusion of true science, and particularly the knowledge of the healing art : Therefore,

I. *Be it enacted by the people of the State of New-York, represented in Senate and Assembly, That it shall and may be lawful for the physicians and surgeons in the several counties of this state, now authorized by law to practise in their several professions, except in those counties wherein medical societies have been already incorporated, to meet together on the first Tuesday of July next, at the place where the last term of the court of common pleas next previous to such meeting was held in their respective counties ; and the several physicians and surgeons so convened as aforesaid, or any part of them, being not less than five in number, shall proceed to the choice of a president, vice-president, secretary. and treasurer, who*

shall hold their offices for one year, and until others shall be chosen in their places; and whenever the said societies shall be so organized as aforesaid, they are hereby declared to be bodies corporate and politic, in fact and in name, by the names of the Medical Society of the county where such societies shall respectively be formed; and by that name shall be in law capable of suing and being sued, pleading and being impleaded, answering, and being answered unto, defending and being defended, in all courts and places, and in all matters and causes whatsoever; and shall and may have a common seal, and may alter and renew the same at their pleasure: *Provided always*, That if the said physicians and surgeons shall not meet and organize themselves at such time and place as aforesaid, it shall be lawful for them to meet at such other time as a majority of them shall think proper, and their proceedings shall be as valid as if such meeting had been at the time before specified.

2. *And be it further enacted*, That the medical societies of counties already incorporated, shall continue to be bodies corporate and politic, in fact and in name, by the names of the Medical Society of the county where such societies have respectively been formed, and by that name shall be in law capable of suing and being sued, pleading and being impleaded, answering and being answered unto, defending and being defended, in all courts and places, and in all matters and causes whatsoever; and shall and may have a common seal, and may alter and renew the same at their pleasure; and the president, vice-president, secretary, and treasurer, of such incorporated

societies, shall hold their offices for one year, and until others shall be chosen in their places.

3. *And be it further enacted,* That the medical society already incorporated, by the style and name of the "Medical Society of the State of New-York," shall continue to be a body politic and corporate, in fact and in name, and by that name shall be in law capable of suing and being sued, pleading and being impleaded, answering and being answered unto, defending and being defended, in all courts and places, and in all matters and causes whatsoever; and shall and may have and use a common seal, and may change and alter the same at their pleasure: and that the said society shall be composed of one member from each of the county societies in the state, elected by ballot at their annual meeting, who shall meet together at the time and place appointed by the said society for that purpose; and being met, not less than fifteen in number, may annually elect by ballot a president, vice-president, secretary, and treasurer, who shall hold their offices for one year, and until others shall be chosen in their places.

4. *And be it further enacted,* That the Medical Society of the State of New-York, and also the medical societies of the respective counties, shall and may agree upon and determine the times and places of their meeting; and at any anniversary meeting of such society may change the day of holding their annual meeting to such other day in the year as may be most convenient; *provided,* that two thirds of the members present concur in voting for such change, notice of intention to move the same having been

first given at some previous regular meeting of the society; and it is hereby made the duty of the secretary of each of the county medical societies, to lodge in the office of the clerk of their respective counties, if not already done, a copy of all the proceedings had at their first meeting; and it shall also be the duty of the secretary of the Medical Society of the State of New-York, in like manner, to lodge in the office of the secretary of this state, a copy of their proceedings, had at their first general meeting; and the said clerks and secretary are hereby required to file the same in their respective offices, for which they shall each receive the sum of twelve and a half cents.

5. *And be it further enacted*, That the members now composing the Medical Society of the State of New-York, from each of the four great districts, shall remain divided into four classes; and one class from each of said districts shall go out of office annually.

6. *And be it further enacted*, That it shall be the duty of the secretary of the Medical Society of the State of New-York, that whenever the seats of any of the members shall become vacant, to give information of the same to the respective county societies, to the end that such county societies may supply such vacancy at their next meeting.

7. *And be it further enacted*, That in case there shall be an addition to the number of members composing the Medical Society of the State, that in that case it shall be in the power of the said society, at any of their annual meetings, and as often as they shall

judge necessary, to alter and vary the classes in such manner, as that one fourth of the members from each of the great districts, as near as may be, shall annually go out of office.

8. *And be it further enacted,* That if the seat of any member of the Medical Society of the State of New-York shall be vacated, either by death, resignation, or removal from the county, it shall be the duty of the medical society of such county, to fill such vacancy at their next meeting after such vacancy shall happen.

9. *And be it further enacted,* That the medical societies established as aforesaid, are hereby respectively empowered to examine all students who shall and may present themselves for that purpose, and to give diplomas under the hand of the president and seal of such society, before whom such students shall be examined ; which diploma shall be sufficient to empower the person so obtaining the same, to practise physic or surgery, or both, as shall be set forth in the said diploma, in any part of this state.

10. *And be it further enacted,* That if any student who shall have presented himself for examination before any of the medical societies of the several counties of this state, shall think himself aggrieved by the decision of such society, it shall be lawful for such student to present himself for examination to the Medical Society of the State of New-York ; and if, in the opinion of such society, the student so applying is well qualified for the practice of physic or surgery, or both, as the case may be, the president of

said society shall, under his hand and the seal of such society, give to the said applicant a diploma agreeable to such decision.

11. *And be it further enacted*, That it shall and may be lawful for the several county medical societies so established as aforesaid, at their annual meetings, to appoint not less than three, nor more than five censors, to continue in office for one year, and until others are chosen, whose duty it shall be carefully and impartially to examine all students who shall present themselves for that purpose, and report their opinion in writing, to the president of said society.

12. *And be it further enacted*, That it shall and may be lawful for the medical societies of the respective counties in this state, and also the Medical Society of the State of New-York, to purchase and hold any estate, real and personal, for the use of said respective societies : *Provided*, such estate, as well real as personal, which the county societies are hereby respectively authorized to hold, shall not exceed the sum of one thousand dollars ; and that the estate, as well real as personal, which the Medical Society of the State of New-York is hereby authorized to hold, shall not exceed five thousand dollars.

13. *And be it further enacted*, That it shall be lawful for the respective societies to make such by-laws and regulations relative to the affairs, concerns, and property of said societies ; relative to the admission of members ; relative to such donations or contributions as they, or a majority of the members, at their annual meeting, shall think fit and proper : *Provided*,

That such by-laws, rules, and regulations, made by the Society of the State of New-York, be not contrary to, nor inconsistent with, the constitution and laws of this State, or of the United States ; and that the by-laws, rules, and regulations, of the respective county societies, shall not be repugnant to the by-laws, rules, and regulations of the medical society of the state of New-York, nor contrary to, nor inconsistent with, the constitution and laws of this State, or of the United States.

14. *And be it further enacted,* That the Treasurer of each society established as aforesaid, shall receive and be accountable for all monies that shall come into his hands by virtue of any of the by-laws of such societies, and also for all monies that shall come into the hands of the President thereof, for the admission of members, or licensing students ; which monies the said President is hereby required to pay over to the said Treasurer, who shall account therefor to the society, at their annual meetings ; and no monies shall be drawn from the Treasurer, unless such sums, and for such purposes as shall be agreed upon by a majority of the society, at their annual meeting, and by a warrant for that purpose, signed by the President.

15. *And be it further enacted,* That it shall be the duty of the Secretary of each of the said medical societies to provide a book, in which he shall make an entry of all the resolutions and proceedings which may be had from time to time, and also the name of each and every member of said society, and the time of his admission, and also the annual reports relative

to the state of the treasury, and all such other things as a majority of the society shall think proper, to which book any member of the society may, at any time, have recourse; and the same, together with all books, papers, and records, which may be in the hands of the Secretary, and be the property of the society, shall be delivered to his successor in office.

16. *And be it further enacted,* That it shall be lawful for each of the said medical societies to cause to be raised and collected from each of the members of such society, a sum not exceeding three dollars in any one year, for the purpose of procuring a medical library, and apparatus, and for the encouragement of useful discoveries in chemistry, botany, and such other improvements as the majority of the society shall think proper.

17. *And be it further enacted,* That any student who may receive a diploma from the medical society of this state, shall pay to the President thereof, on receiving the same, ten dollars; and for each diploma that a student may receive from the medical society of any county, he shall pay to the President thereof, on receiving the same, five dollars.

18. *And be it further enacted,* That the medical society of this state may elect, by ballot, at their annual meetings, eminent and respectable physicians and surgeons, residing in any part of this state; which persons so elected, shall be permanent members of the society, and entitled to all the privileges of the same: *Provided,* That not more than two such members shall be elected in any one year, and that they

receive no compensation for their attendance from the funds of the society.

19. *And be it further enacted,* That all persons who may be hereafter licensed to practise physic and surgery, shall deposit a copy of such license with the clerk of the county in which such practitioner may reside ; and until such license shall be so deposited, these practitioners who may neglect the same, shall be liable to the penalty of this act, in the same manner as if they had no such license ; and it shall be the duty of the clerk to file such license in his office, for each of which he shall receive twelve and a half cents, and no more, from the practitioner who may deposit the same.

20. *And be it further enacted,* That it shall be in the power of the legislature to alter, modify, or repeal this act, whenever they shall deem it necessary or expedient.

21. *And be it further enacted,* That if there should not be a sufficient number of physicians and surgeons in any of the counties of this state, to form themselves into a medical society, agreeably to this act, it shall be lawful for such physicians and surgeons to associate with the physicians and surgeons of an adjoining county, for the purposes hereby contemplated.

22. *And be it further enacted,* That the state medical society shall annually elect not more than twelve, nor less than six censors, any three of whom shall be a quorum for the examination of students, and they

shall report their opinion in writing to the president of said society.

23. *And be it further enacted,* That in those counties where the anniversary meetings of any county medical society shall occur on the same day on which the court of common pleas shall meet, it shall be lawful for such society to alter the time of their anniversary meeting, to such a day as a majority of the said society present may think proper.

24. *And be it further enacted,* That each of the colleges of medicine in this state, may elect a delegate to represent their colleges respectively in the medical society in this state, who shall be entitled to all the privileges, and subject to the same regulations as the delegates from the county medical societies.

25. *And be it further enacted,* That this act shall be, and hereby is declared a public act.

GENERAL REGULATIONS

CONCERNING THE

PRACTICE OF PHYSIC AND SURGERY OF THIS STATE.

CONTAINED IN

CHAPTER XIV. TITLE VII.

OF THE REVISED STATUTES WHICH TOOK EFFECT ON THE
FIRST DAY OF JAN. 1823.

Sect. 1. THE President of every County Medical Society shall give notice in writing, to every physician and surgeon, not already admitted into such society, within the county in which the society of which he is president is situated, requiring such physician or surgeon, within sixty days after the service of such notice, to apply for and receive a certificate of admission, as a member of such society.

Sect. 2. The service of every such notice shall be made personally on the physician or surgeon to whom it shall be directed: and if such physician or surgeon shall not, within the time specified in the notice, or within such further time as may be allowed by the president, under the regulations of the society, apply for a certificate of membership in such society, his license shall be deemed forfeited, and he

shall be subject thereafter, to all the provisions and penalties of the laws of this state in relation to unlicensed physicians, until, upon a special application, he shall be admitted a member of the medical society in the county in which he shall reside.

Sect. 3. If there shall be preferred to any county medical society, specific charges against any member thereof, of gross ignorance or misconduct in his profession, or of immoral conduct or habits, a special meeting of the society to consider the charges shall be called, of which at least ten days previous notice shall be given, in one or more of the newspapers printed in the county.

Sect. 4. If two-thirds of the members present at such meetings shall be of opinion that the charges preferred are well founded, the president of the society shall, without delay, deliver a certified copy of the charges, and of the vote of the society thereon, to the district attorney of the county, and shall give notice of such delivery to the member accused, who from that time shall be suspended from the practice of physic and surgery, until the determination of such charges, in the manner hereinafter provided.

Sect. 5. The district attorney to whom the charges shall be delivered, shall serve a copy thereof without delay, on the member accused, and at the same time shall give him notice of the time and place at which the judges of the court of common pleas of the county will meet, for the purpose of hearing and determining the same: such notice shall be served at

least fourteen days before the time of hearing appointed.

Sect. 6. The district attorney shall conduct the prosecution of the charges, and shall issue process to compel the attendance of such witnesses as the president of the society and the member accused shall severally require.

Sect. 7. The judges of the county court, at the time and place of hearing appointed, or at such other time and place as they shall fix, shall proceed to hear and determine the charges, and shall examine, on oath, the witnesses produced : if they, or a majority of them, shall be satisfied, from the evidence, that the charges are true, they shall make an order, which shall be valid in law, expelling the member accused from the society, and declaring him for ever thereafter incapable of practising physic and surgery within this state, or suspending him from such practice, for a limited period : if they shall be of opinion that the charges are not established, the suspension of the member accused shall cease, and he shall be restored to all his rights and privileges as a practising physician and surgeon.

Sect. 8. No student shall be admitted to an examination by any medical society, until he shall have completed, with some physician and surgeon, duly authorized by law to practise his profession, the term of medical study prescribed in the following sections of this Title :

Sect. 9. The regular term of the study of medical science shall be four years, but a deduction from such term in no case to exceed one year, shall be made in either of the following cases :

1. If the student, after the age of sixteen, shall have pursued any of the studies usual in the colleges of this state, the period during which he shall have pursued such studies, shall be deducted.

2. If the student, after the age of sixteen, shall have attended a complete course of all the lectures delivered in an incorporated medical college in this state, or elsewhere, one year shall be deducted.

Sect. 10. The physician and surgeon with whom a student shall commence his studies, shall file a certificate with the president of the county medical society to which he belongs, certifying that such person has so commenced his studies ; and the term of study shall be considered as commencing on the day on which such certificate is filed.

Sect. 11. If the term of study shall be intended to be for less than four years, upon either of the grounds mentioned in the ninth section of this Title, the president, with whom the certificate shall be filed, upon satisfactory proof that a deduction ought to be allowed, shall annex to such certificate, an order specifying the period, not exceeding one year, which, according to the proof exhibited to him, ought to be deducted from the term of four years, and directing that the term of study of the student shall be for the period that shall remain.

Sect. 12. No person shall receive from the regents of the university a diploma, conferring the degree of doctor of medicine, unless he shall have pursued the study of medical science for at least three years, after the age of sixteen, with some physician and surgeon, duly authorized by law to practise his profession, and shall also after the same age, have attended two complete courses of all the lectures delivered in an incorporated medical college, and have attended the last of such courses in the college by which he shall be recommended for his degree.

Sect. 13. No student shall be admitted to an examination by any county medical society, except of the county in which he shall have pursued his medical studies for four months immediately preceding his examination; but if the student during that period, shall have attended the lectures in either of the incorporated medical colleges of this state, he may be examined and licensed, either by the medical society of the county in which such college is situated, or by that of the county in which he shall have resided, previous to such attendance.

Sect. 14. No person who shall have been examined by the censors of any county medical society, as a candidate for the practice of physic and surgery, or either of them, and shall have been rejected on such examination, shall be admitted to an examination before the censors of any other county medical society; but such person may appeal from the decision of the censors by whom he shall have been examined, to the medical society of the state.

Sect. 15. No person who, either upon an original examination or upon an appeal, shall have been rejected by the censors of the state medical society, shall thereafter be admitted to an examination before the censors of any county medical society.

Sect. 16. No person shall practise physic or surgery, unless he shall have received a license or diploma for that purpose, from one of the incorporated medical societies in this state, or the degree of doctor of medicine from the regents of the university : or shall have been duly authorized to practise by the laws of some other state or country, and have a diploma from some incorporated college of medicine, or legally incorporated medical society, in such state or country.

Sect. 17. No person coming from another state or country, shall practise physic or surgery in this state, until he shall have filed a copy of his diploma with the clerk of the county where he resides, and until he shall have exhibited to the medical society of that county, satisfactory evidence that he has regularly studied physic and surgery, according to the requisitions of the ninth section of this Title.

Sect. 18. No diploma granted by any authority out of this state, to an individual who shall have pursued his studies in any medical school within this state, not incorporated and organized under its laws, shall confer on such individual, the right of practising physic or surgery within this state.

Sect. 19. Every person licensed to practise physic or surgery, or both, shall deposit a copy of such license with the clerk of the county where he resides, who shall file the same in his office ; and until such license is so deposited, such person shall be liable to all the penalties provided by law, in the same manner as if he had no license.

Sect. 20. No person under the age of twenty-one years shall be admitted to practise physic or surgery in this state.

Sect. 21. The degree of doctor of medicine conferred by any college in this state, shall not be a license to practise physic or surgery ; nor shall any college have, or institute a medical faculty, to teach the science of medicine, in any other place than where the charter locates the college.

Sect. 22. Every person not authorised by law, who for any fee or reward shall practise physic or surgery within this state, shall be incapable of recovering by suit, any debt arising from such practice, and shall be deemed guilty of a misdemeanor, punishable by fine or imprisonment, or both, in the discretion of the court by which he shall be convicted.



BY-LAWS
OF THE
MEDICAL SOCIETY
OF THE
COUNTY OF NEW-YORK.

REVISED AND ADOPTED JULY 14, 1828

OFFICERS,

ELECTED JULY 14, 1828.

THOMAS COCKE, M.D. *President.*

SAMUEL W. MOORE, M.D. *Vice-President.*

ABRAHAM VAN GELDER, M.D. *Treasurer.*

JEREMIAH VAN RENSSELAER, M.D. *Cor. Secretary.*

JOHN J. GRAVES, M.D. *Recording Secretary.*

Censors.

DANIEL L. M. PEIXOTTO, M.D.

EDWARD G. LUDLOW, M.D.

RICHARD K. HOFFMAN, M.D.

ABRAHAM V. WILLIAMS, M.D.

CHANDLER R. GILMAN, M.D.

Delegate.

SAMUEL OSBORNE, M.D.

BY-LAWS, &c.

CHAPTER I.

MEETINGS OF THE SOCIETY.

ART. 1. THE anniversary meeting shall be held on the second Monday of July in every year.

ART. 2. The stated meetings shall be on the second Monday in every month, except July.

ART. 3. Extraordinary meetings may be called by the president, or in his absence, by the vice-president, at the request, in writing, signed by eleven members; a notice of which shall be sent to each member, at least three days previous to the meeting.

ART. 4. The society may adjourn, from day to day, their anniversary, stated, or extraordinary meetings.

ART. 5. Eleven members shall constitute a quorum at each meeting.

ART. 6. In the absence of the president, vice-president, and censors, the senior member on the roll shall preside.

ART. 7. Every member shall observe order and decorum in the society, shall pay due respect to the president, and other officers, and to his fellows, and no member shall withdraw, during the session, without special permission from the chair.

ART. 8. All notices for meetings of the society shall be given through the medium of the post-office.

CHAPTER II.

ORDER OF BUSINESS.

ART. 1. At each stated meeting, after the presiding officer shall have declared the society formed, the minutes of the last meeting shall be read, the examination of candidates for license shall be held, if any be recommended by the Comitia Minora. The presiding officer may direct the order in which communications shall be read.

Motions, and other unfinished business of the last meeting shall be considered; and at extraordinary meetings, the business for which the society is convened shall be first considered.

ART. 2. No member shall be permitted to speak on any subject of business more than twice, without special leave of the presiding officer.

ART. 3. At each anniversary meeting, after the examination of candidates, the minutes of the Comitia Minora of the last year shall be read.

ART. 4. The election of officers shall be held by ballot. Accounts against the society shall be considered and acted on.

ART. 5. Amendments to the by-laws may be considered and decided.

CHAPTER III.

PRESIDENT.

ART. 1. It shall be the duty of the president to preside at all meetings of the society, and preserve order and decorum.

ART. 2. He shall perform the duties prescribed by the statutes, by-laws, and resolutions of the society.

ART. 3. He shall appoint all committees, unless otherwise ordered by special resolution.

ART. 4. He shall take the sense of the society on every motion made and seconded.

ART. 5. He shall have no vote, except on questions where the votes are equally divided.

ART. 6. He shall keep on file all documents and certificates in relation to the society, which are by law deposited with him, and these he shall deliver to his successor.

ART. 7. He shall give notice in writing to every physician and surgeon residing in the county of New-York, not already admitted a member of the society, as soon as he shall receive information of the same, requiring such physician and surgeon within sixty days after the personal service of such notice, to apply to him for admission as a member of the medical society; and also requiring him at the same time, to deposit with the secretary the testimonials and documents relating to his professional qualifications.

And the president shall report to the society, at each stated meeting, the names and residences of the persons so notified by him, who have refused or neglected to apply for membership, or who have not deposited with the secretary their credentials within the time specified in such notice.



CHAPTER IV.

VICE-PRESIDENT.

The vice-president, in the absence of the president, shall perform the duties of the president.



CHAPTER V

CENSORS.

ART. 1. The censors shall perform the duties prescribed by the statutes, the by-laws, and resolutions of the society.

ART. 2. In the absence of the president and vice-president, the senior censor present shall preside.

CHAPTER VI.

TREASURER.

ART. 1. The treasurer shall perform the duties directed by the statutes, the by-laws, and resolutions of the society.

ART. 2. It shall be the duty of the treasurer to put all the monies of the society into one fund, to be appropriated to the payment of current expenses, or such other objects and improvements as the society may occasionally direct.

CHAPTER VII.

SECRETARY.

ART. 1. The secretary shall perform the duties directed by the statutes, the by-laws, and resolutions of the society.

ART. 2. He shall publish, at least once in each year, in one or more newspapers of this city, a list of the members of the society; and also, a list of such unlicensed practitioners as are registered in his books, agreeably to article first of chap. xiv. of the

by-laws ; together with the first and second section of Title vii. Chapter xiv. of the revised statute, entitled, " Public Health."

ART. 3. It shall be the duty of the secretary to notify each person proposed as a member of this society, that he has been so proposed, and to transmit him a copy of the first article of the 14th chapter of the by-laws.

CHAPTER VIII.

CORRESPONDING SECRETARY.

ART. 1. At each anniversary meeting a corresponding secretary shall be elected by ballot.

ART. 2. He shall conduct the correspondence of the society under the direction of the Comitia Minora. He shall retain copies of all letters written by him in behalf of the society, and preserve on file all letters and communications received by him in his official capacity, and shall report the same at each stated meeting.

ART. 3. He shall record in a book provided for that purpose, all communications read before the society, which shall be approved by the Comitia Minora, and such papers shall be considered the property of the society.

ART. 4. He shall obey all orders and resolutions appertaining to the duties of his office.

ART. 5. In cases of absence or sickness, the secretaries shall reciprocally perform each other's duties.

CHAPTER IX.

DELEGATE.

The delegate shall perform the duties prescribed by the statutes, the by-laws, and resolutions of the society.

CHAPTER X.

COMITIA MINORA.

ART. 1. The president and other officers shall constitute the Comitia Minora.

ART. 2. The Comitia Minora shall meet on the Wednesday preceding each anniversary and stated meeting.

ART. 3. The president may call an extraordinary meeting of the Comitia Minora whenever he shall deem it necessary.

ART. 4. The president or vice-president, together with three censors, shall constitute a quorum for the examination of candidates, but any four members may constitute a quorum for the transaction of other business.

ART. 5. The journal of the proceedings of the Comitia Minora shall be kept by the secretary, and read at each anniversary meeting, together with the names of the attending and absent members ; and if it shall appear that any member has been absent from three meetings in succession, without having assigned a satisfactory reason, he shall be ineligible to office for the year ensuing.

ART. 6. All communications, memoirs, or essays on medical subjects, after having been read and accepted by the medical society, may be submitted to the Comitia Minora for their subsequent examination, by whom they may be ordered to be published.

ART. 7. The Comitia Minora shall execute such duties as shall be prescribed by the society.

ART. 8. The Comitia Minora may make rules and regulations for their government, not inconsistent with the charter or by-laws of the corporation.

ART. 9. It shall be the duty of the Comitia Minora to take cognizance of breaches of the precepts of medical ethics which shall be laid before them, and they may report the result of their proceedings thereon to the society, if they think proper.



CHAPTER XI.

LECTURERS.

ART. 1. Eleven lecturers shall be elected by ballot at each anniversary meeting.

ART. 2. Each lecturer shall read according to the alphabetical arrangement of his name at each meeting of the society, except the anniversary, a dissertation on some subject connected with medicine or surgery, or some important case in practice.

ART. 3. He shall furnish the corresponding secretary with a copy of his dissertation previous to the next stated meeting after it is read.

ART. 4. No member, in publishing a paper which has been read before this society, shall, without their permission, state its having been read before them.

CHAPTER XII.

PERMANENT COMMITTEES.

ART. 1. The following permanent committees shall be appointed by the president at the anniversary meeting, viz. the library committee, committee of intelligence, meteorological committee, committee on diseases, finance committee, and the ward committee.

ART. 2. The library committee shall, from time to time, purchase such books as may be ordered by the society.

ART. 3. The library committee shall have power, with the consent of the society, to make such rules and regulations as shall be thought most conclusive to the welfare of the library.

ART. 4. The committee of intelligence shall collect and report to this society, recent medical facts and intelligence.

ART. 5. Any member of this committee may report verbally such articles of intelligence as he may acquire.

ART. 6. This committee shall keep a book in which they shall record all information given to the society.

ART. 7. This committee shall take charge of all models and instruments, (with the exception of the meteorological apparatus) belonging to this society.

ART. 8. The meteorological committee shall keep, or cause to be kept, a regular series of observations, noticing the temperature and currents of air, the variations in the barometer, the quantity of rain fallen, the progress of vegetation, and all other circumstances connected with the climate, which may have an influence on our diseases; the instruments and apparatus for which they may procure at the expense of the society.

ART. 9. It shall be the duty of the committee on diseases, to investigate the character, causes, and progress of diseases as they may prevail, with the best means for their prevention and cure, and keep a record of the same.

ART. 10. It shall be the duty of the preceding committees to report every three months, or oftener if ordered by the society, the records of their pro-

ceedings, with such observations as they may think proper.

ART. 11. The finance committee shall audit the treasurer's account, and also all other accounts that may be presented to the society for payment ; and they shall also devise ways and means to raise funds, when necessary, to meet the expenditures of the society.

ART. 12. The ward committee shall advise the president of those physicians and surgeons who are practising in the county, and who have not become members of the society, or been notified by him ; and also, of all those who have not complied with the requisitions of the medical law.

CHAPTER XIII.

ORDINARY MEMBERS.

ART. 1. The ordinary members shall consist of physicians and surgeons only.

ART. 2. It shall be the duty of every member of the society to answer before the Comitia Minora to complaints made against him ; and in case of refusal to answer when required, the name of such member shall be reported to the society.

ART. 3. Every member shall observe the code of medical ethics adopted by this society.

ART. 4. No member shall use in his practice, or vend any secret remedy or nostrum, the discovery of which he claims, or which he has received from others, unless he shall communicate the composition of the same to the society, when required to do so by a resolution of that body.

ART. 5. No member who has been absent from four successive stated meetings of this society, during the preceding year, without satisfactory excuse, shall be eligible to any office at the next anniversary.



CHAPTER XIV.

ADMISSION OF MEMBERS.

ART. 1. Any member may propose a candidate for admission into this society, and when the documents and testimonials relative to the professional qualifications of such candidate, and also of all other candidates who may apply for certificates of membership, pursuant to the notice of the president, shall be placed in the hands of the secretary, he shall lay them before the Comitia Minora, whose duty it shall be to examine the same; and if they find that he has complied with the ninth and seventeenth sections of Title vii. Chapter xiv. of the revised statute, entitled, "Public Health," and with all other existing laws regulating the practice of physic and surgery in this state, they shall state the same to the society, and also the nature and character of his credentials; and if the society approve of the same, they shall grant

him a certificate of membership. But if the Comitia Minora find his credentials not to be satisfactory, and that he has not complied with the laws of the state, they shall return them to him, and cause his name to be entered in the secretary's book as an unlicensed practitioner, to be disposed of as the society may direct.

ART. 2. Every member shall sign the by-laws, and designate the state or country of his birth, and the medical rank or station held by him at or previous to his admission.

ART. 3. Every candidate before signing the by-laws and receiving his certificate of membership, shall be required by the secretary to present the treasurer's receipt for his initiation fee of ten dollars, which shall be appropriated to the use of the society; whereupon the secretary shall present him with a copy of the by-laws.

ART. 4. No person shall be considered a member of this society, till he has complied with the last article.

The following shall be the form of certificate of membership:

These are to certify, that _____ is a member of the Medical Society of the county of New-York, incorporated in the year of our Lord one thousand eight hundred and six.

In testimony whereof, we have affixed our
 L.S. hands and seal of the Society, this _____ day
 of _____ 18 _____

President.

Secretary.

CHAPTER XV.

CONTRIBUTION AND ARREARS.

ART. 1. The society, at the anniversary meeting, may establish such contribution as shall meet the yearly expenses.

ART. 2. The treasurer shall, from time to time, at the cost of the society, employ a person to collect the arrears of each member, to whom, in case of refusal to pay, a copy of the following section shall be delivered in writing.

ART. 3. Every member who shall continue delinquent in the payment of his contributions during the term of one year, after being notified thereof by the treasurer, shall forfeit the privileges of membership.



CHAPTER XVI.

HONORARY MEMBERS.

ART. 1. Any member may propose a candidate as an honorary member, but the medical rank or station held by him shall be furnished in writing by the proposer, at or previous to the time of such proposal, and if satisfactory, the person so proposed shall be ballotted for at a subsequent meeting. A majority of votes shall constitute him an honorary member.

ART. 2. Not more than six honorary members shall be annually elected.

ART. 3. The honorary members may take part in debate, but shall not be entitled to vote.

ART. 4. The Governor and Chancellor of the State, and the Mayor of the city of New-York, for the time being, shall be, *ex-officio*, honorary members.

The following shall be the form of the diploma for honorary members.

*Societas Medica Civitatis Novi Eboraci atque Comitatus,
Omnibus has literas perlecturis.*

SALUTEM.

Virum probum et ornatissimum, D. D.
A. B. Quem fama promit, scientiarum
medicinæ et chirurgiæ cultorem, liberalium honori-
bus artium provectum, Placuit nobis Præsidi, cæte-
risq: Sociis hujusce Comitatus Concil: Med: Fa-
cultatis Socium constituere Honorarium; atque auc-
toritatem ei donare, privilegia et immunitates ad nos-
trates Medicæq: Facultatis quæ pertinent; ubiq:
terrarem dextra et honore amplectendum.

In quorum fidem, hæ literæ, pro Emerito So-
cio D. D. A. B. manibus, sigilloq. Ar-
chiatrum munitæ lubentissime mandantur.
I. S. Medicis Ædibus Novi-Eboraci. A. D. 18
Apr: Kalend:

Præs.

Scr.

CHAPTER XVII.

LICENTIATES.

ART. 1. All applicants for a license to practise physic and surgery, who shall be approved of by the Comitia Minora, shall by them be recommended to the society, and be subject to such formalities as the Comitia Minora shall direct.

ART. 2. Every candidate for license, on presenting himself for examination, shall pay to the censors, for the benefit of the society, the sum of ten dollars.

ART. 3. Every person admitted to the practice of physic and surgery, shall sign the following declaration, viz.

I, A. B. do solemnly declare, that I will honestly, virtuously, and chastely conduct myself in the practice of physic and surgery, and that I will with fidelity and honour, do every thing in my power for the benefit of the sick committed to my charge.

This declaration, so signed, shall be preserved amongst the archives of the society.

ART. 4. Every person admitted to the practice of physic and surgery, shall receive the following diploma, viz.

Omnibus ad quos hæc literæ pervenerent.

SALUTEM.

Nos, Societatis Medicæ Comitatus Novi Eboraci, Præses, Cæterique Socii, hoc scripto testatum volumus, [here insert the name and country of the candidate] Artis medicæ et chirurgicæ sub viris in medicina peritis, tempore præstituto, se studio incubuisse, et in hisce studiis progressum, luculento testimonio, nobis probasse et comendasse. Quocirca, ex auctoritate nobis commissa, medicinæ et artis chirurgicæ, in hac civitate exercendæ, ei potestatem, cum omnibus privilegiis ad has artes pertinentibus, concedimus.

In quorum testimonium hocce diploma, sigillo nostro munitum, donavimus. Datum Novi Eboraci die A.D. Millesimo octingentesimo.

Præses.

a Secrétis.

ART. 5. If instead of the above, a diploma in the English language should be requested by the person so admitted, it shall be in the following form, viz.

To all to whom these presents shall come, or may in any wise concern :

THE President and Members of the Medical Society of the County of New-York, send greeting:—Whereas [insert the name and country of the candidate] hath exhibited unto us satisfactory testimony that he hath studied physic and surgery, for the term, and in the manner directed by law; and hath

also, upon examination by our censors, given sufficient proofs of his proficiency in the healing art, and of his moral character. Wherefore, by virtue of the power vested in us by law, we do grant unto the said [insert the name of the candidate] the privilege of practising physic and surgery in this state, together with all the rights and immunities which usually appertain to physicians and surgeons.

In witness whereof, we have granted this diploma, sealed with our seal, and testified by our President and Secretary, at [insert place, day, and year.]

ART. 6. Every person receiving a diploma of license, shall be notified by the secretary, that he must deposit a copy of the same with the clerk of the county in which he may reside, and that until this be done, he is subject to penalty as an illegal practitioner.

ART. 7. Every person admitted to the practice of physic and surgery by this society, shall pay to the secretary five dollars, and he shall be presented with a copy of the charter and by-laws.

HONORARY MEMBERS.

HUGH WILLIAMSON, M.D.*—*New-York.*

LEWIS VALENTINE, M.D.P.—*Nancy, France.*

M. TEABUCK, M.D.P.—*New-Orleans.*

M. GERARDIN, M.D.P.—*France.*

M. L. BREULETON, M.D.P.—*Bordeaux, France.*

HIPPOLITE CLOQUET, M.D.P.—*Paris, France.*

DON AUGUSTINE FRUTOS, M.D.—*Madrid, Spain.*

PIERRE FREDERICK THOMAS, M.D.—*New-Orleans.*

M. BERARD, M.D.—*Montpellier, France.*

ZOLICKHOFFER.—*Philadelphia.*

J. L. CHABERT, M.D.M.—*New-Orleans.*

AUGUSTUS FITZ RANDOLPH TAYLOR.—*New-Jersey.*

P. M. ROUX, M.D.—*Marseilles, France.*

* Deceased.

MEMBERS.

Akerley Samuel
Ackerly George
Anderson Andrew
Anderson Anthony L.
Anderson John A.
Arnold Joseph C.

Berry Abraham T.
Barrow William
Baxter John
Bayley Joseph
Beck John B.
Beekman Stephen D.
Berger Francis E.
Blatchly Cornelius C.
Bliss James C.
Buchanan Walter
Buckham Andrew
Boyd Thomas
Brooks David B.
Brown Stephen
Brush jun. Nehemiah
Barker Luke
Brinkerhoff John
Belden Lewis
Bailey Benjamin
Baylies Hersey
Bowran John S.
Boyd William H.

Cameron James
Cheeseman John C.
Cleeve Charles
Cock Thomas

Cockroft James
Conger John S.
Cooper Gerardus A.
Cooper Fayette
Cumming George
Cutter Smith
Condit Æneas S.
Cornell James E.
Chandler Zenas
Cox Abraham L.
Coit Benjamin B.

Downs James
Duvall Joseph W.
Davis John
Dayton Daniel
Dekay James E.
Delafield Edward
Dering Nicoll H.
Douglass John H.
Drake Charles
Dunham Hampton
De Gray Michael
Doucett Francis O
De Lanuza G.
Davis John C.

Eddy Casper W.

Ferris Floyd T.
Fisher Joshua
Francis John W
Forrester Peter

Gilman Chandler R.
 Grayson William
 Griffen Augustus R.
 Godman J. D.
 Gram Hans B.
 Glover John
 Graves John J.
 Graham William

Hallock Israel
 Hammersley Andrew
 Hammersley William H.
 Hanson Joseph
 Hart Joel
 Harriot George
 Hibbard William
 Hoffman Richard K.
 Hersey J. H.
 Hosack David
 Hosack Alexander E.
 Howe John I.
 Hull Amos G.
 Hunt Andrew
 Hunter Abraham T.
 Hunter Thomas W.
 Hills John
 Hardenbrook John H.
 Hickock William C.
 Hitchcock Daniel

Ingersoll John I.
 Ives Ansel W.

Johnson Robert
 Johnston Francis W.
 Judson H. Tomlinson
 Jaques John D.

King Frederick G.
 Kinsley Hudson
 Kissam Benjamin
 Kissam Benjamin R.
 Kissam Benjamin P.
 Kissam Daniel W.
 Kuypers Samuel S.

Ketteltas Ph. D.

Lord Daniel
 Ludlow Edward G.
 Loring John B.

Moching G.
 Macauley Samuel
 Mead Elijah
 Manley James R.
 Merritt Lemuel
 Miner William W.
 Mitchill Samuel L.
 Monroy Otho
 Marvin David
 Moore Samuel W.
 Mott Valentine
 Mc Intosh William
 Mc Knight I. M. Scott
 Mc Lean Hugh
 Mc Neven William James
 Mc Vickar Benjamin
 Mc Caffray William
 Mc Ilvane Matthew

Neilson John

Onderdonk John
 Osborne Samuel

Pascalis Felix
 Peixotto D. L. M.
 Pendleton James M.
 Pennell Richard
 Phelps James L.
 Payne Martin
 Pierson Charles E.
 Powers William W.
 Perkins Cyrus

Quackenboss George C.
 Quackenboss Nicholas I.

Robson Benjamin R.
 Rockwell William

Rouse ———

Rodgers John R. B.
 Rodgers John Kearney
 Rogers David
 Rogers David L.
 Rogers James H.
 Rogers J. Smyth
 Rhinelander John R.
 Riley Henry A.

Seaman F. W.
 See John
 Simpson Archibald B.
 Smith Albert
 Smith Gilbert
 Smith J. Augustine
 Smith Joseph M.
 Smith T. L.
 Smith W. S.
 Saynisch Ludovich
 Stearns John
 Sterling John W.
 Stevens Alexander H.
 Stillwell William
 Sweeney Hugh
 Swift William
 Scott William S.

Tomlinson David
 Townsend Peter S.

Trenor John
 Tuite ———

Upson Hiram
 Underhill Richard

Van Gelder Abraham
 Van Beuren Thomas
 Van Dorin Garrit
 Van Rensselaer Jeremiah
 Van Solingen Henry M.
 Van Arsdale Peter
 Van Arsdale Philip
 Ver Meule Richard

Walker Richard L.
 Watts jun. John
 Weed John W.
 Wilson Abraham D.
 Willet Marinus
 Winthrop Egerton L.
 Wright Amaziah
 Wright Clark
 Wolfe Elias
 Wolf J. Leo
 Wood Isaac
 Williams A. V.

Yates Christopher C.

A SYSTEM
OF
MEDICAL ETHICS,

PREPARED BY THE

STATE MEDICAL SOCIETY,

ADOPTED AND REPUBLISHED BY THE

MEDICAL SOCIETY OF THE COUNTY OF NEW-YORK.

Testor, Apollineum medicum, et Æsculapium, — me quantum in me erit, et quantum ingenium meum valebit, hæc omnia observaturum ; vitam meam atque artem meam puram atque integram servaturum.

Ex Hippocratis jurejurando.

A SYSTEM
OF
MEDICAL ETHICS.

A SYSTEM of Medical Ethics comprises all the moral principles and regulations which should govern physicians and surgeons in the exercise of their professional avocations with the public in general, in private and confidential cases, as well as in their intercourse with other medical men, and before magistrates and courts of justice.

Such a system may be reduced to the form of a code of medical police, exhibiting maxims and precepts in five respective divisions of medical ethics, under the following heads.

- 1st. *Personal Character of Physicians.*
- 2d. *Quackery.*
- 3d. *Consultations.*
- 4th. *Specifications of Medical Police in Practice.*
- 5th. *Forensic Medical Police.*

NOTE.—Precepts and Articles of the code of Medical Police are severally arranged under a series of numbers:

FIRST DIVISION.

PERSONAL CHARACTER OF PHYSICIANS.

It would be difficult to determine which of the three learned professions in society requires the most virtue, or the most

purity, and perfection of personal character. 'Those only can judge who are themselves acquainted with the difficulties to be surmounted in the study of medicine and surgery, and the labour and extent of the long course of experimental observation which it is necessary to pursue, before the confidence of the public can be attained. The life of a physician is, on the whole, a continued struggle against prejudices and erroneous habitudes of the mind, and not unfrequently against ingratitude,* exclusive of the personal hazard among the sick, the fatigue, and the loss of ordinary comfort and rest which it necessarily involves.

I. A physician cannot successfully pass through his career without the aid of much fortitude of mind, and a religious sense of all his obligations of conscience, honour, and humanity.† His personal character should, therefore, be that of a perfect gentleman, and above all, be exempt from vulgarity of manners, habitual swearing, drunkenness, gambling, or any species of debauchery, and contempt for religious practices and feelings.‡

II. The confidence of the public cannot be awarded to a physician who has rendered himself notorious for felony or misdemeanour, or who has incurred penalties for crimes.

* It unfortunately happens, that the only judges of medical merit are those who have sinister views in concealing and depreciating it.

[*John Gregory, M.D. Lect. I. on the Duties, &c. p. 17. Lond. ed.*

† Hence appears the necessity of a physician having a large share of good sense and knowledge of the world, as well as medical genius and learning.

[*J. Gregory, M.D. Lect. I. page 17.*

‡ The most celebrated physicians who to this day remain our models and masters were religious men. I know none among the living who can be judged greater than Stahl, Boerhaave, Linnæus and Haller, who always headed their works by an invocation to the Supreme Ruler.

[*F. E. Fodéré. Vid. Diction. des sciences médicales. art. Méd. police*

III. A physician in indigent circumstances is not permitted to embrace or exercise any business which would degrade the character of his profession ; such as keeping a tavern, lottery-office, gambling, victualling, or play-house. Any low trade or servile mercenary occupation is incompatible with the dignity and independence of medical avocations. In such extreme and derogatory situations a physician forfeits the privileges of his profession.

SECOND DIVISION.

The importance of the medical profession requires that it should be exercised with fidelity to its scientific principles and approved doctrines ; with honour to all its members ; and with justice and humanity to the sick. A departure from the above principles constitutes

QUACKERY ;

which degrades the medical character by ignorance, artifice, unapproved methods of practice, and by the use of remedies dangerous to health and life.

IV. Any physician or surgeon who divides his responsibility with a known quack, and associates with him in medical consultations, receiving a fee or the usual charges for such services, or practices with nostrums, secret medicines, or patent remedies, is guilty of quackery.

V. The right of a patent medicine being incompatible with the duty and obligation enjoined upon physicians to advance the knowledge of curing diseases, it constitutes quackery, and cannot be professionally countenanced.

VI. Public advertisements, or private cards, inviting customers afflicted with defined diseases; promising radical cures; engaging *for no cure, no pay*; offering advice and medicines to the poor, *gratis*; producing certificates and signatures even from respectable individuals in support of the advertiser's skill and success, and the like; are all absolutely acts of quackery, which medical institutions should always repress, and punish by the rejection or expulsion of those who commit them.

THIRD DIVISION.

CONSULTATIONS.

All the individuals composing the Colleges and Medical Societies constituted by the legislature of this State, are by them, qualified *Physicians and Surgeons*. The two professions of Medicine and Surgery are blended by the law, both in the schools and in practice. The examinations by the censors of the county and state societies of candidates for the degree of *license*; and by the professors of colleges for the degree of *doctor*; are equally directed to embrace in their exercises the elements and doctrines of both sciences, establishing thereby the candidate's proficiency, not only in medicine, but in surgery. There are no degrees of qualifications, nor are different rights assigned to the members of the same profession, but such as result from their individual choice, skill, and fitness. Practical surgery is more properly attended to by the younger members, but the more experienced should be deemed competent to direct or inspect either the theoretical or practical departments.

These remarks are offered, to show that the distinction frequently adopted in practice, and especially in consultation, between physicians and surgeons, confining each other to *sur-*

gical or medical external or internal cases, has no foundation in propriety, and if adhered to, arises from the wish to indulge in personal or interested motives. It is admitted, however, that when the question is merely to perform some operative process, a *practical surgeon* should be selected in preference ; but this exception is only applicable, when a physician declines (on such accounts as he may think proper,) to perform a necessary operation, and by no means invalidates the principle established in the state of New-York, in conformity to Medical Ethics.*

VII. A consultation of one or many physicians is like a deliberating committee, over which a senior in age or experience presides, each one, however, being equally responsible for the trust assigned to him of the cure or relief of the patient. The attending physician is exclusively charged with the execution of the treatment, from day to day, nor is any consulting physician ever allowed to visit or inspect, unless it be with his colleagues, or by agreement, or in cases of emergency.

When a surgical operation is required, it devolves upon the senior practitioner of surgery in the consultation, or on one especially appointed.†

VIII. A diversity of opinion in consultation is to be regretted, for if unavoidable, it must cause much delay and

* Among the moderns, the arts of physic and surgery have often been promiscuously practised by the same person : for example, Hildanus, Severinus, Bartholine, and many others of distinguished genius and learning.

..... The separation of physic from surgery in modern times has been productive of the worst consequences.

[*J. Gregory, Lect. II. p. 44.*

† In consultations, the junior physician or (or the physician in ordinary) should deliver his opinion first, and the other, in the progressive order of seniority.

[*T. Percival, Med. Ethics. p. 19.*

many inconveniences before a medical umpire can be obtained. It is needless to point out what a correct sense of delicacy will in this case require from a gentleman who in spite of his opposition, finds himself in the minority; he should politely retire from the consultation, and if he be the family physician, he should consistently resign his *deliberative vote*.*

IX. A great reserve, and even secrecy respecting the deliberations of a consultation is indispensable. No communication is to be made to the patient or friends but by unanimous order and consent; because, whatever opinions are emitted, become subject to frequent alterations or inversions from mouth to mouth, and may become a source of contradiction perhaps injurious to some of the physicians in attendance.

X. It is the duty of a consulting physician to take care that his visits be not multiplied without necessity. He is, through courtesy, at liberty to decide when to discontinue his attendance. A consulting physician, however, cannot be dismissed without the consent of the patient as well as of the attending physician.

XI. Physicians are justly censurable if their patient be in danger and they do not, in time, procure advice and responsibility beside their own. Whatever be the motive that induces them to dispense with a consultation, they certainly may expose their reputation by an incorrect judgment or

* Every physician must rest on his own judgment which appeals for its rectitude to nature and experience alone.

[J. Gregory, *Lect. I. on the duties and qualities, &c. Lond. ed. p.14.* But an obstinate adherence to an unsuccessful method of treating a disease, is self-conceit—it generally proceeds from ignorance—it is a species of pride to which the lives of thousands have been sacrificed.—[*Ib. p. 28.*]

misapprehension of their patient's case, and weaken the confidence reposed in them. And a physician does not acquit himself correctly toward his patient if he does not benefit him with the best advice that can be procured. Poverty or the narrowness of means to remunerate an additional practitioner is no reasonable excuse ; for he can scarcely deserve the name of a practising physician, who cannot find at least one medical friend to consult, when the life or limb of a fellow creature is in jeopardy.

FOURTH DIVISION.

SPECIFICATIONS OF MEDICAL ETHICS IN PRACTICE.

XII. It is not intended in this system of Medical Ethics to instruct physicians and surgeons upon every felonious act of infanticide, murder, &c. for which the penal statutes of this country have made sufficient provision. It is incumbent upon medical authorities to consider, condemn, and punish as *criminal*, such acts of medical practitioners as offend the respective obligations of married persons, or the chastity and modesty of the youth of both sexes. This restrictive definition is to be applied,

1st. To the personal conduct of medical men, who abuse the confidence of families, and become exposed to legal damages for *crim. con.* or *seduction*, &c.

2d. To those who with a view of curing diseases or correcting certain natural imperfections, prescribe remedies or advise remedial means that must interfere with matrimonial rights and the observance of a chaste and moral life.

The scope of opinion on this subject may be wide, and the pretexts in palliation numerous, but the dependence of the

public upon our labours, for the preservation of health, and the cure of diseases, ought to be held sacred ; nor can confidence be granted to a profession that should allow any of its members to violate hospitality, to promote immorality, or to be accessory to vicious and criminal conduct.

XIII. Honour and justice particularly forbid a medical practitioner's infringing upon the rights and privileges of another who is legally accredited, and whose character is not impeached by public opinion, or civil or medical authority ; whether he be a native, or a stranger settled in the country. There is no difference between physicians but such as results from their personal talents, medical acquirements, or their experience ; and the public, from the services they receive, are the natural judges of these intellectual advantages. In all probability, every good physician would receive a merited share of patronage, were there not many who usurp a portion through artful insinuations, and slanders of others, or combinations against, or improper interferences with the more worthy practitioner. Any physician thus molested or injured, is justifiable in applying for redress to the county medical society to which he is attached.

XIV. A physician is not to visit a patient placed under another practitioner's care, without previous and ostensible friendship or business, nor without first informing the attending physician ; if then he thinks it proper to advise, he may do it, but it must be in conformity to the rules of consultation as above explained.

XV. Libellous attacks among physicians are no doubt subject to the same mode of redress by damages as the law points out to other citizens ; but we hold that matters of libel include professional and practical acts, whether true or false, published or stated to any person who is not a competent judge, with a view to injure the professional reputation of a physician. This identical principal was adopted by the Supreme

Court of Pennsylvania in the trial of Benjamin Rush v. Wm. Cobbett, *alias* Porcupine, in which a verdict of \$4000 damages was awarded to the plaintiff for a libel founded in a malicious representation of the plaintiff's practice, made to the public by the defendant.

XVI. If medical controversies are brought before the public in newspapers or pamphlets, by contending medical writers, and give rise to, or contain assertions or insinuations injurious to the personal character or professional qualifications of the parties, such papers are unquestionably disreputable to the medical community; for those who should be foremost in the pursuit of truth, ought to be the last to set an example of an illiberal, indecorous, and revengeful deportment, so contrary to what is expected from literary and scientific gentlemen. Such papers are therefore to be reported by the censors to their respective county medical societies, and the authors are liable to such punishment as the cases may require.

It is a matter of justice, necessity, and propriety, that the business of a physician and surgeon should be always considered of a confidential nature. Even *secrecy* in certain circumstances, as will be explained hereafter, is the privilege of the faculty, and inviolable even in a court of justice. In ordinary practice, common sense, decency and delicacy should, in familiar conversation with females and persons uninstructed in medicine, always exclude such topics as patients, diseases, remedies, operations, and the like. A display of terrific and wonderful relations of diseases, remedies, wounds, operations, and cures, is frequently indulged in, no doubt *ad captandam*, yet in most cases they produce but an equivocal admiration for the narrator, and prove beside, his very imperfect knowledge of human nature. Those who are not familiar with the subjects of medical art and study, are liable to draw mistaken and contradictory inferences from what they hear concerning them. Hence many people suppose that a physician

is an unfeeling man ; and assimilate a good surgeon to a butcher. The more talk therefore, the more numerous the misrepresentations set afloat, and the greater the diffidence, distrust, or disrespect excited.

XVII. The exposure of the nature of the complaint which a physician is called upon to judge or cure, subjecting the patient to public shame or impeaching his moral character, is an unpardonable breach of Medical Ethics.

XVIII. "The poor," says Boerhaave, "are the best customers, because God will be the paymaster." Instead of fee, they give in exchange the benefit of experience, of useful observation, and frequently the gratification of successful advice, which is more exactly followed by them than by the rich, who too often spoil the best directions by their whimsical notions and love of comfort. The most lucrative and extended patronage a physician can enjoy, far from being an honourable pretext for not affording some attention to the poor, stands as a proof of his selfishness or want of humanity.

XIX. In urgent cases of sickness, or of injuries occasioned by accidents, a call for medical or surgical help should be obeyed immediately, unless such compliance be to the detriment of some other sufferers. It often happens in such cases that many physicians, and more than are required, meet on the spot. Courtesy then assigns the patient to the first physician or surgeon who arrives, and if he should want assistance, he has a right to request it from a physician or practical surgeon present, according to the nature of the case. But if the physician or surgeon who usually attends the family or patient be of the number, then the present urgent case is assigned to him.

In the event of the concurring attendance of many medical gentlemen, no fee is to be exacted for the trouble of coming, unless called upon by some authorized person. An accidental

injury is *distress*, and help for a fellow-being in *distress* is claimed by the laws of nature.*

XX. The fees for the compensation of medical services are regulated by the value of currency and the price of necessities in different countries and cities; by the customs approved and established among experienced and reputable practitioners; and sometimes by a recorded rate of charges, such as individuals belonging to any trade or profession adopt by general consent. It must be recollected however, that this last mode has been forbidden physicians and surgeons in their corporate capacity, by a resolution of the State Medical Society of New-York, in the year 1817. This is in conformity to the common law of England, according to which, services rendered by advice cannot constitute a pecuniary debt, and much less in the medical profession, which "is too honourable," said a chief justice of that country, (Lord Erskine) "to be subjected to a defined rate of charges." It follows from this, that medical services are not legally entitled to remuneration, except for the employment of time, medicines, and personal labour in attending upon the sick. But public opinion in a civilized nation, and among the more enlightened classes of society, will always highly estimate and liberally compensate medical services.

A strict sense of justice and honour towards each fellow-member of the profession, should prevent a physician from undervaluing his services, by items and charges in his bills,

* Dr. Gregory says, (p. 179) "that under such circumstances considerations of benevolence, humanity, and gratitude are wholly set aside: for when disputes arise, they must be suspended or extinguished; and the question at issue can alone be decided on the 'principle of commutative justice.' If a physician would therefore contend for remuneration, it could not be as a *medical fee*, but an indemnity only for expenses of transporting himself there, where he *might* be wanted. The question is the more easily settled, that it has no further reference to medical service."

beneath the customary rate, with a view to draw patronage by exciting comparisons. A practitioner may settle his demands with his patrons on whatever terms he pleases, but he has no right to make the law or change an established usage to the prejudice of his brethren. The reputation of a *cheap doctor*, after all, is neither dignified nor enviable.

Others will follow quite a contrary method. They will place an exorbitant value on their time and labour, and exact oppressive demands for their services. The conduct of such has a very injurious influence upon the lower and middling classes of society, who, needing medical aid, are deterred from applying to any physician, lest they should incur ruinous charges. These expensive doctors should be reminded that whenever a person pays a bill which he thinks extravagant and unreasonable, he easily repays himself, and gratifies his vanity if not his resentment, by divulging how much money he has been willing to bestow ; what liberality he has exercised ; or to what imposition he has been exposed !

Some physicians, more intent on acquiring wealth than a good name, *exact* from their patients their charges, whether great or small, with unrelenting severity, refusing time to procure the necessary means, often having recourse to law-suits, disregarding the plea of low circumstances, or absolute want, thus creating much distress. Such conduct is as disreputable to the physician as it is disgraceful to humanity, for the highest aim of the profession, is to reach its utmost requisitions. These *extortioners*, as they dishonour the medical profession, by a single act of such oppression, deserve a public reprimand, if not a prompt expulsion from their county medical society.

Whenever a physician is reduced to obtain his professional fees by compulsory measures, it is his duty first to propose, and then to prefer the settlement of the matter in contention by a reference to arbitrators.

XXI. It is enjoined in the sacred obligation which Hippocrates imposed upon the pupils of the noble science of medicine and surgery, which is also the model of the like engagement offered to the candidates for graduation in this and other countries ; that they shall respect and assist their preceptors and masters, their seniors by experience or age, and shall contribute as far as in their power, to the honour, improvement, and utility of their professions. According to this precept, physicians and surgeons have something more to do, than to procure their livelihood. As they are indebted to the labours, talents, and experience of their predecessors in the healing art for all that constitutes its admirable body of doctrine ; so present and future generations look to them for some additional improvement, because much can yet be done to extend its usefulness. This obligation is unbecomingly violated by many physicians who pretend to eminence ; they estrange themselves from medical associations—never have any observation or improvement to communicate,—their degree of skill and experience always remains unknown and mysterious,—they screen themselves from scientific labours and controversies, and, as if incompetent, never contribute by any effort, however small, to the advancement of the medical character. Such practitioners, although they are frequently popular and wealthy, are, nevertheless, only comparable to drones in the bee-hive : medical associations should refuse to confer upon them offices, appointments, or even employments in committees ; on the principle that proofs are wanting of their talents, zeal, judgment, and professional emulation.

FIFTH DIVISION.

FORENSIC MEDICAL POLICE.

XXII. There are numerous accidents and offences, the nature and degree of criminality of which are determined by medical opinion. Human passions daily occasion acts of

violence which fall under the cognizance of public justice ; and diseases of the mind, whether arising from vice, intemperance, sickness, or accident, have also their share of influence in the commission of crime ; and often lead their unfortunate victims to suicide and murder. Crime so originating could be perpetrated in ways so disguised as to conceal the authors or the means by which they were accomplished, were it not that juries can be assisted by medical men in evidence relating to physiology. A physician should always be in readiness to answer in these jurisdictional inquisitions, and to give an opinion, on facts referred to his judgment, according to the approved doctrines of medicine and surgery, as far as these are ascertained. Ignorance, or an imperfect knowledge upon matters which place life, honour, and innocence in a fatal predicament, is unpardonable, and should subject any physician so illiterate, to disqualification for the privileges of his profession.

XXIII. To well instructed physicians only two rules need to be recommended. The one relating to their conduct when they are called upon to give professional evidence ; and the other, to the nature and extent of the secrecy which they are bound to maintain in relation to their patients.

1st. When physicians engaged in the decision of a forensic question are unbiassed by the parties, and have no interest for plaintiff or defendant, (being well informed of all the facts alleged in evidence) they have only to decide by known medical principles, and can therefore rarely disagree. It is their duty to obtain every possible information upon the case, and before giving in their declaration, candidly and conscientiously to canvass each other's opinions, so that erroneous ideas may be removed, and information participated.* Two

* When two or more gentlemen of the faculty are to offer their opinions or testimony, it would sometimes tend to obviate contrariety if they were to confer freely with each other before their public examination.

[*T. Percival, Med. Ethics, ch. 4, p. 107.*]

or more physicians on one side of a question, should in the same manner freely communicate, in order to guard against versatile and contradictory declarations, for which the trivial sarcasm, "doctors differ," is no excuse, as they always invalidate their opinions, authority, decisions, and respectability.

2d. The second rule is that of secrecy upon facts with which physicians become professionally acquainted, or are invited to ascertain; such as whether an apparent pregnancy be real; the gestation and birth of a child; its parentage, colour, and age; the judgment and treatment of syphilitic and gonorrhœal diseases; the able or disabled state of a person, in limb or constitution; the fallacy of virginity and other circumstances, to the confession of which, a degree of shame, and the idea of exposure is attached, and which are never mentioned but with an engagement to secrecy.

This duty has been defined by comparing it to that of the Catholic Confessional, which admits of no disclosures except in cases of treason or murder.* This inference has been acknowledged by the judiciary of New-York, and, in its application to medical matters, admitted by that of Philadelphia, in the year 1800;† and the Medical Society of the State of

* The sacred duty or privilege of a catholic priest not compellable to disclose the secrets of auricular confession, was maintained by a decision of the court of sessions of New-York, 14th June, 1813. In the case of the Rev. Mr. K. refusing his testimony on a matter of felony.

[*Vide Cathol. Quest. Report. by Wm. Sampson, Esq.*

† The same secrecy was vindicated to a physician (by a superior court of Philadelphia, 1800) refusing the disclosure of his professional acts, against a plaintiff suing for Divorce, on the plea of adultery.

Many persons would rather suffer or die, than be exposed to shame or disgrace from the complaints they are labouring under. It is a law of nature that they should seek for cure or relief, and be protected by professional secrecy, even if a matter of persecution should arise therefrom.

[*Committee.*

New-York have adopted the same principle, so extended as to include felony. But this great privilege of the medical profession ought to be limited by discretion and regulated by a strong sense of moral duty ; it should never be exercised to the injury of innocence, or the violation of the rights of justice, or when it might operate to the dishonour or distress of families.

REPORT OF THE

NOTE.—The following precept of Medical Police having been accidentally omitted in the Report of the Committee, and reinstated only after the adjournment of the State Medical Society, is here placed, under the authority which they have given for revision and notes.

Physicians are often requested to declare to the patient his danger, and to urge his observance of religious and testamentary acts : but medical aid, in extremely dangerous cases, would seldom be of any avail, if in place of composing the mind of the sufferer, physicians were to doom it to despondency and despair. Such services are incompatible with their duty of administering hope and comfort, without the influence of which, many doubtful cases of disease might at once become positively fatal.

To a christian minister alone, or to some other authorized person, therefore, appertains the task of disclosing to the patient his alarming situation, and preparing his mind to meet with composure that event, which to his friends may appear inevitable.

Physicians should not interfere in the final settlement of their patients' worldly affairs. These are eventually composed of various family claims and pretensions ; and a physician's interference in their distribution may be taxed as

arising from interested motives, or be thought by those concerned to be a disgraceful violation of the confidence reposed on his humane functions as medical attendant.

In order to protect himself, and to place his name beyond the reach of any implication, he should,

1st. Give timely and explicit information of the dangerous situation of the patient to those who have the best right to advise him in his religious and temporal concerns.

2d. He should inform them of a possibility of a change in the prognostic, in order to prevent any relaxation of care and attention on the part of nurses and others, that no chances of the patient's recovery be lost through neglect.

3d. The physician in such a case should continue his personal attendance, which is the more proper, as he entertains or has acknowledged some hopes of a favourable change : should he be dismissed from pecuniary motives, his responsibility nevertheless requires a friendly or gratuitous attention.*

* "It is as much the business of a physician to alleviate pain and to smooth the avenues of death, when unavoidable, as to cure diseases."

[*Vide* 7 Gregory's *Lectures*, Lond. ed. p. 35, and Benj. Rush's *Appendix on the Duties of a Physician*, Art. XI.



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